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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

DELFINO PEREZ SILVA,

Defendant and Appellant.

A137068

(Mendocino County
Super. Ct. No. MCKU-CRCR-
1223164)

Appellant Delfino Perez Silva appeals from his convictions and resulting sentence to one count of committing a lewd and lascivious act on a child under the age of 14 with force (Pen. Code,¹ § 288, subd. (b)(1)), and one count of forcible oral copulation (§ 288a, subd. (c)(2)). The convictions resulted from a negotiated plea of guilty to one charge, a no contest plea to the second charge, and a stipulation to a sentence of 16 years in state prison.

Appellant's counsel has filed an opening brief in which no issues are raised, and asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has declared that appellant has been notified that no issues were being raised by counsel on appeal, and that an independent review under *Wende* instead was being requested. Appellant was also advised of his right personally to file a supplemental brief raising any issues he chooses to bring to this court's attention. No supplemental brief has been filed by appellant personally.

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

PROCEDURAL AND FACTUAL BACKGROUND OF CASE

A three-count criminal complaint was filed by the Mendocino County District Attorney's Office on August 22, 2012,² charging appellant with two counts of committing a lewd and lascivious act on a child under the age of 14 with force (§ 288, subd. (b)(1)), one count of forcible oral copulation (§ 288a, subd. (c)(2)), and one count of oral copulation on a child under the age of 10 (§ 288.7, subd. (b).) The complaint also included special allegations not directly relevant to this appeal.

On September 25, appellant entered a plea of guilty to Count One (§ 288, subd. (b)(1)), and no contest to Count Three (§ 288a, subd. (c)(2)). In return for his plea, it was agreed that he would be sentenced to a total of 16 years in state prison (the aggravated term of 8 years for each of the two counts to be served consecutively), including that he would be required to serve 85 percent of that sentence, less credit for time already served in local custody. At the time his plea was entered, appellant was advised of the rights he was waiving as a result of his plea, which rights he voluntarily and knowingly waived. The defense also stipulated to a factual basis for the plea. Appellant also entered an *Arbuckle*³ waiver.

Judgment and sentencing took place on November 2. Appellant was sentenced to the negotiated term of 16 years, less local custody credits. Restitution and other fines and penalties were assessed.

CONCLUSIONS BASED UPON INDEPENDENT RECORD REVIEW

Upon our independent review of the record, we conclude there are no meritorious issues to be argued, or that require further briefing on appeal.

We discern no error in the sentencing or plea disposition. The sentencing choices made by the trial court were supported by substantial evidence, were well within the discretion of the trial court, and were consistent with the stipulation entered into at the time of appellant's plea. All fines and penalties imposed were supported by the law and facts. At all times appellant was represented by counsel. Upon our independent review

² All further dates are in the calendar year 2012, unless otherwise indicated.

³ *People v. Arbuckle* (1978) 22 Cal.3d 749.

of the record we conclude there are no meritorious issues to be argued, or that require further briefing on appeal.

DISPOSITION

The judgment is affirmed.

RUVOLO, P. J.

We concur:

REARDON, J.

RIVERA, J.